

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, April 23rd, 2018

Those Present: Mr. Jesse Pippy, Chairman
 Mr. Rick Stup, Board Member
 Mrs. Debbie Burrell, Board Member
 Mrs. Kathy V. Dean, Administrator
 Mrs. Linda Thall, Senior Assistant County Attorney
 Mr. Bob Shrum, Alcoholic Beverage Inspector
 Mr. Robert Lind, Alcoholic Beverage Inspector

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:00 AM by Chairman Pippy.

1. Violation

a. Sales to Minor

Cacique Restaurant
Rigoberto Gutierrez
for the use of Copinol Restaurant Inc.
t/a Cacique Restaurant
26 North Market Street
Frederick, Md 21701
Class B, On Sale, Beer, Wine & Liquor
License #11BL 1077, FCLB Case#11294

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on January 31st, 2018 at approximately 5:40 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Dalton Schaszberger was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensee pled Guilty to this charge. Mrs. Thall made the Frederick City Police report as part of the record.

Mrs. Thall stated that the plain clothed officer and the minor entered the restaurant and sat at a table. The minor ordered a house sangria from the server identified as Mrs. Cabrera. She did request the identification, which was a Pennsylvania driver license. She still served the minor.

Mr. Pippy asked if the minor was present. Officer Jansson stated the minors are volunteers with no type of compensation for doing these compliance checks or being required to appear for these hearings. That seems to be the issue with getting the juvenile to appear because they are volunteers. Mr. Pippy added that they do get a gift certificate and they are adults. They choose to participate in a legal operation which turns into a

legal proceeding. They are subpoenaed by a legal body, which is a requirement to attend.

Mr. Stup asked if there was an alcohol certified person on staff at the time of the incident. Mr. Gutierrez replied that there was not any alcohol certified person on staff at the time of the incident. Mr. Pippy asked if Mr. Gutierrez has a TIPS certification. He replied that he had a copy of the card with him. There was confusion on who was on staff at the time. Mr. Pippy pointed out that there is a State Law that requires an alcohol awareness person to be onsite at all times unless there is an emergency. Mr. Stup asked what happened when you checked the identification. The server did not check the dates, she assumed since he showed her identification that she could serve him. She now knows better after taking the TIPS class. Mr. Gutierrez said he has instructed the staff to check all identifications. Mr. Stup wants to be sure they read them carefully.

Mrs. Burrell asked about a policy for when a new server starts and how does that get enforced. Mr. Gutierrez is now utilizing the server policy provided by staff after the event had occurred.

Mrs. Dean reviewed the violation history. On June 29th, 2017, there was a Late to File a Renewal, they paid a \$300.00 no contest fine.

MOTION: Mr. Stup made a motion to assess a fine of \$500.00 with a six month probation.

SECOND: There was no second.

MOTION DIES

SECOND MOTION: Mrs. Burrell made a second motion to assess a \$500.00 fine with no probation.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Stup agrees that 14 years of a clean record is commendable. He supports the motion. They have added training.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was unanimous **Ayes-3, Nay-0**
(Motion passed)

b. Sales to Minor

La Paz Restaurant
Graham Baker & Marcia Baker

for the use of La Paz Mexican Restaurant, Inc.
t/a La Paz Restaurant
51 South Market Street
Frederick, Md 21701
Class B, On Sale, Beer, Wine & Liquor
License #11BL 1169, FCLB Case#11292

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on January 31st, 2018 at approximately 4:45 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Dalton Schaszberger was allowed to possess an alcoholic beverage in violation of §6-304 of the Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensee pled Not Guilty to this charge.

Officer Yohe of the Frederick City police department testified that she was working the compliance checks with Officer Jansson. The minor entered the restaurant with Officer Yohe and sat at a table. The minor then ordered a draft Coors Light beer. The server was identified as Patricia Williams. Mrs. Williams checked the identification and continued to serve the alcohol. Officer Yohe left the establishment and had Officer Jansson finalize the investigation.

Mrs. Thall asked the officer to identify the server. Officer Yohe pointed her out in the audience. She identified her as Patricia Williams. Officer Jansson made contact with Mrs. Williams, who then stated she had never had a violation in twenty five years. She was having a bad day. She did acknowledge the sale to the minor.

Mr. Pippy asked to review the police report. There was no objection. Mr. Pippy said that we had a discussion about using Maryland minors. He wanted to clarify when that discussion happened. Mrs. Dean would have to check the records in the office.

Mr. Stup asked who was the alcohol certified person on duty? Mr. Baker answered, "Trish." They have multiple staff members who are TIPS certified. Mr. Stup asked what steps have been taken to avoid this from happening again. Mr. Baker said this incident is being used as a learning tool. They preach to the staff to card every day. This is very serious to them. They can preach all day long but there is human error with distractions. This was the case that day. When new servers are hired, they shadow experienced servers. They have stopped taking vertical licenses.

Mrs. Williams added that she simply made a mistake. She has taken the ID training with Martin Johnson. She is TIPS certified. She is using the tools from the class to help other staff members. She uses this to teach

each other so this can never happen again. She is very sorry for this error. She has worked at La Paz for twenty five years.

Mrs. Burrell asked if both the officer and the minor ordered alcohol. Mrs. Williams recalls that they asked how much the beer had cost but doesn't recall if both ordered alcoholic beverages. She is pretty sure it was just the minor. Mr. Pippy asked if the out of state license confused her. Mrs. Williams said, "Yes, this has been very hard." She looked for the minor but doesn't see him in the courtroom here today. Mr. Baker asked Mrs. Williams if part of the beer was consumed. She said, "Yes, half of the beer was gone." He then turned to the Board and asked is that part of the compliance check. He would have wanted to ask the minor if he was present. Officer Yohe stated she was the one who drank the beer. Mr. Pippy asked was there a reason she did that. She replied, "Yes, to make it look like he was consuming it because we sat there for a few moments."

Mr. Pippy is bothered by the fact that a minor was used from Pennsylvania. The Board does not issue these compliance checks. These are done randomly by the Health Department. We have made it clear of how we want these compliance checks conducted. This will impact the decision of finding an establishment guilty. The first requirement is that the minor must have a valid Maryland driver license. The reason is for that is to eliminate confusion. This Board wants to train people, not catch them in an act of selling to a minor. We want business owners to be successful. He added that if the person drinking is of age, then did the server really sell to a minor. This causes confusion.

Mr. Pippy would like to dismiss this case with a warning. The proceedings will go in the file as if you were here. The reasons for this is one, you plead not guilty, two, it was an out of state driver's license, three, you had a participating officer drinking. He would like the other Board members to give their feedback. Mr. Stup would like to hear the violation history.

Mrs. Dean reviewed the violation history. On October 26th, 2015, there was a Sales to a Minor, paid a \$400.00 fine and six month probation. One person was required to attend ID training.

MOTION: Mrs. Burrell made a motion to dismiss this case because there is no minor present, the officer was drinking during the compliance check, and they licensee pled not guilty. The licensee has also taken additional training.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Stup is not going to support the motion because this is the second violation of this type in over two years. Mr. Pippy is following the rules and being

consistent. The confirmed officer drinking is part of the reason he has seconded the dismissal.

VOTE: Mr. Stup-Nay
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was ***Ayes 2, Nay-1***
(Motion passed)

c. Sales to Minor

Shuckin Shack Oyster Bar
Eric Weller, Brent Newman and Wade Newman
for the use of Bad Mother Shuckers, LLC
t/a Shuckin Shack Oyster Bar
41 South Market Street
Frederick, MD 21701
Class B, On Sale, Beer, Wine & Liquor
License #11BL 5067, FCLB Case#11293

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on January 31st, 2018 at approximately 5:10 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Dalton Schaszberger was allowed to possess an alcoholic beverage in violation of §6-304 of the Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensee pled Not Guilty to this charge.

Officer Yohe of the Frederick City police department testified that she was working the compliance checks with Officer Jansson. The minor and the officer sat a table together. The server identified as Jaqueline Burns did not check the identification. She served the minor a Coors Light. Officer Yohe admitted drinking the alcohol to make it appear that the minor was drinking.

Mr. Stup asked if there was an alcohol certified person on duty. Mr. Newman said that the server was TIPS certified. Mrs. Burns said that the minor looked older than thirty, therefore she did not request the identification. Mr. Stup asked what steps have been taken since this incident. Mr. Newman stated that they had alcohol class this past Sunday. Any new servers are trained what to look for with identifications. They discuss this daily. Mr. Newman added that if you look ninety years old, they will check all identifications from here on out. Mr. Newman is upset that everything seems to be set up and an attempt to trick them.

Mr. Pippy stated that this Board tries to give the licensees tools to utilize and be prepared. He hopes this makes them more aware of who is in their establishment. He suggested that they check all identifications.

Mrs. Burrell asked the server if she asked the minor's age. She replied, "No." She also asked how much of the alcohol was consumed by the officer? The server answered, "More than half the bottle." Mrs. Burrell asked the officer how much alcohol was consumed. Officer Yoke said, "I did not drink a whole beer." Mrs. Burrell said half a beer at each establishment adds up to a whole beer. Officer Yohe said she did not drink half a beer at either location.

Mr. Newman added that other places had complained about the officers drinking during these compliance checks. He did say there was another compliance check two weeks later and they passed it. Mr. Pippy asked if this is typical for two compliance checks to the same place in a two week span. Officer Jansson said they are not in scheduling, therefore she cannot comment. Mr. Newman showed the Board copies of where he passed the last compliance check.

Mrs. Burrell asked why the alcohol consumption by the officer was not noted on the police report. Officer Yohe said that she is over the age of twenty one and during these compliance checks she is allowed to consume alcohol. This was for underage sales to minors and that was documented.

Mr. Newman has used this as a learning tool. He doesn't want this to happen again. The server has been very responsible and is a good employee.

Mrs. Dean reviewed the violation history. On August 2nd, 2017, there was a warning for not Filing the Alcohol Ratio Form on Time. On January 22nd, 2018, there was charge for Making Changes to the Licensed Area without Approval, the violation was suspended with revised drawings and a new lease put in file.

MOTION: Mrs. Burrell made a motion to dismiss this case with a warning because the minor is not present. The minor was not from Maryland. The officer did consume alcohol while performing the compliance check. This is their first sales to minor violation.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was unanimous ***Ayes-3, Nay-0***
(Motion passed)

Sales to Minor case called for Los Trios. Both licensees were not present therefore Mr. Stup made a motion to continue the case.

MOTION: Mr. Stup made a motion to continue the case.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Abstain
Mrs. Burrell-Aye

The vote was ***Ayes-2, Abstain-1***
(Motion passed)

d. Sales to Minor

Pho TNT
Tyler Tu, Charlie Nee, Jean Nee
for the use of Pho TNT, Inc.
t/a Pho TNT
1003 W. Patrick Street #8
Frederick, MD 21702
Class B, On Sale, Beer, Light Wine
License # 11BW 5851, FCLB Case # 11289

Mr. Joseph Incpel, an attorney for Zar Zar came forward. He doesn't feel this Board has the authority to issue a subpoena. By statute this Board can issue summons. The subpoena issued is beyond the power of the Liquor Board. The subpoena issued is a Circuit Court subpoena. This is problematic. Maryland rule 25-10A3 contains limitation on who can issues a Circuit Court subpoena and when. Subsection A3 basically makes it a civil violation to use the Circuit Court subpoena by a regulatory agency is improper. There are multiple reasons for disputing the subpoena requesting someone to come before you. He feels there is statutory authority that allows this Board to proceed. He referenced §6-204 statute for review. He handed out copies to the Board. The Maryland rules defines the differences between the summons and the subpoena. This is not a Circuit Court proceeding, this is a regulatory agency proceeding. Therefore he feels they cannot bring someone before them with this method. He doesn't feel the proper procedure has been followed. He moves to squash the subpoena for Zar Zar. The Board has failed to use the summons properly.

Mrs. Thall replied that she got no advance notice of this issue. She is in no position to answer these questions at this hearing. She advised the Board that they have the opportunity to cure the defect if they want to continue the case. We can issue a summons and be right back here at another time. The Board can choose not to take the testimony or require the testimony from the server. Mrs. Thall asked if the server was present. The attorney responded that the server is in a situation where she can respond but the attorney would not acknowledge if she was present. Mrs. Thall said, "So you are not going to acknowledge if the server is present." The attorney said, "I believe I just did."

Mr. Pippy asked Mr. Incpel who he represents. He said he represents the server. Mr. Pippy was holding paperwork that says summons. He sees two separate issues. One is the Board of License Commissioners sent a summons for each licensee. Two, Mr. Incpel has issues relating to the way the Liquor Board does subpoenas. Mr. Pippy asked Mrs. Dean if we sent a summon letter to the server. She replied, "No." Mrs. Thall clarified that a subpoena was issued for the server. Mr. Pippy wanted Mr. Incpel to understand that the licensee is held accountable to this Board not the server. Since the client of Mr. Incpel is not a licensee, Mr. Pippy recommended that they set up a time with Mrs. Thall at a later time to resolve his concern over the subpoena. Mr. Incpel is confused about what he is supposed to do.

Mrs. Thall suggested he listen to the case and if the server is needed for testimony then they can decide if any of this is necessary. She is open to helping him resolve his concerns at another time. Mr. Incpel added that the server will not testify at this hearing. Mr. Pippy stated that regardless if she is here or not the licensee's will be held accountable not the server as far as this Board's proceedings. Mrs. Thall added that we have had other cases where the server did exercise their 5th amendment rights indicating in advance that they will not be testifying. This Board has not been insistent on that point. Mr. Pippy said it doesn't matter if the person is here or not here at this point because they are not going to be testifying. Mr. Pippy would like to proceed with the licensees.

Mr. Stup wanted to be clear that we have put forth a policy to make sure these cases are heard in a timely manner. The civil cases were taking too long to adjudicate. The case we are about to hear is not the same as the court hearing. Mr. Pippy asked the licensees if they wish to proceed. Mr. Nee answered, "Yes we would like to proceed."

Mrs. Thall said that the motion Mr. Incpel put forth is a moot point for the case. She will look into this for future cases.

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on January 31st, 2018 at approximately 4:55 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The minor was identified as Ivy Wright and was allowed to possess an alcoholic beverage in violation of §6-304 of the Maryland Annotated Code

and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensee pled Not Guilty to this charge.

Corporal Ertter and Officer Myers entered the establishment and sat at a table together with the minor. The server identified as Zar Zar did not card any of them at the table. She proceeded to serve a Miller Light to the minor. Mrs. Thall asked the officers if any of them consumed any of the alcohol during the compliance check. Officer Myers replied, "We did not." Officer Payne came in and issued the citation for the sale.

Mrs. Thall made the police report a part of the record. Officer Payne prepared the report and took the photos.

Mr. Stup asked was there an alcohol certified person on staff at the time of the sale. Mr. Nee was the person who is certified but he stepped out to pick up his daughter. He was not aware that it was required that this certified person be at the establishment at all times. Mr. Stup asked what steps have been taken to avoid this situation again. Mr. Nee answered that all servers must ask for identification regardless of how someone may look like. If another minor is served that server will be terminated. Mr. Tu added that this is embarrassing. They don't sell a lot of alcohol to begin with. When this occurred they were very upset. They sat down all the servers to go over the consequences this would have on their license. We have an ID sign up by the register that says to check all identification. Being here is a lesson learned and a slap in the face. Mr. Stup asked that the Inspectors go out and review the expectations of having someone on staff certified and the log that is required.

Mrs. Burrell informed the licensee that there is a responsible server policy template available on line. The employees can sign this and understand the consequences. She wanted to be clear that there was no one there on site at the time that was alcohol certified. Mr. Nee said that is correct he was not there for about an hour.

Mr. Pippy stated that this Board has a session each year to go over the legislation. Once they become law, we do everything we can to get that communicated out to licensees. The Alcohol Awareness person on site is required at all times, that is a State Law. Unless there is an emergency which allows a two hour window that must be logged and kept by the register.

Mrs. Thall asked the Board to make finding of fact and conclusions of law. The Board found the licensees guilty of all charges presented in this case.

Mrs. Dean reviewed the violation history. On June 13th, 2014, there was a Late to File a Renewal, paid a \$50.00 fine. On September 1st, 2015, there was a Late to Pick Up a Renewal, paid a \$100.00 fine. On July 29th, 2017, there was a Late to Pick up a Renewal, paid a \$150.00 fine. On August 2nd, 2017, there was a warning for a Late to File the Alcohol Ratio Form.

MOTION: Mr. Stup made a motion to assess a \$500.00 fine. Mr. Stup wants Inspector Lind to educate them on the Regulation Book.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mrs. Burrell said if there are other options available, she is asking the Board to consider what could be available to this licensee. Mr. Stup added that with the facts given of no alcohol certified person on site, he felt his motion was appropriate. Mr. Pippy agreed that with it being a first time offense this is in line with what we have adjudicated in the past.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was unanimous **Ayes-3, Nay-0**
(Motion passed)

e. Sales to Minor

Santa Rosa Restaurant
Maria Delcid, Gregorio Ramos, Jorge Ramos
for the use of Santa Rosa Restaurant, Inc.
t/a Santa Rosa Restaurant
107 Baughmans Lane
Frederick, MD 21701
Class B, On Sale, Beer, Wine & Liquor
License #11BL 1573, FCLB Case#11290

Anthony Sacala represents the server subpoenaed by this Board. The server was identified as Joseline Orellanna. He wanted the Board to know she is here today with representation.

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on January 31st, 2018 at approximately 6:25 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Ivy Wright was allowed to possess an alcoholic beverage in violation of §6-304 of the Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensees pled Guilty to this charge. Mrs. Thall made the Frederick City police report part of the record.

Mrs. Thall went over the facts in the police report. There were two plain clothed officers. They entered the restaurant with the minor. They sat at a table together. The server did request the identification but still made the sale to the minor. The server brought a Bud Light to the table.

Mr. Pippy asked if there was an alcohol certified person in the establishment at the time of the sale. Mr. Ramos replied, "It was me." Mr. Pippy went over the vertical identification as a good indicator that someone is not twenty one. Mr. Ramos said he reminds his staff daily about checking identifications. The server did come to him and said she thought she made a mistake. Mr. Pippy wanted them to know that it is never too late to correct a mistake. If you notice after the fact that someone may have been served underage, you can take the alcohol back. Mr. Ramos said it was too late, the officer had already come in. Mr. Pippy reminded them that they need to look at the dates on identifications.

Mr. Stup asked the server what had happened that day. Mr. Sacala replied for Mrs. Orellanna. She has since taken an alcohol awareness class. She is no longer in the restaurant business. She felt very bad about what had happened.

Mrs. Burrell asked law enforcement if all three people at the table ordered drinks? Officer Myers answered, "Yes, we all three ordered drinks." She then asked the officer to describe the events of that led up to the sale. Officer Myers said they were seated in the dining room and the server approached them right away. They all three ordered but he is not sure who ordered first. The minor was carded and the officers were not. Mr. Ramos interjected that they were not seated at the bar. Mr. Ramos wanted the Board to know that he is taking this very seriously and they will ask for identification from everyone.

Mr. Pippy suggested that they increase the tools they have available to them to ensure this doesn't happen again. Mr. Ramos also utilized the Responsible Server Policy template. All his employees have signed off on that policy.

Mrs. Dean stated that there is no violation history for the ten years they have had a license.

MOTION: Mr. Stup made a motion to assess a \$500.00 and suspend the fine.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Pippy asked if there would be a probation period. Mr. Stup replied, "No." Mrs. Thall said the net result is the same.

VOTE: Mr. Stup-Aye
Mr. Pippy-Abstain
Mrs. Burrell-Aye

The vote was **Ayes-, Abstain-1**

(Motion passed)

f. Sales to Minor

Shamrock Restaurant
Donna Demmon, David Fitzgerald, & Dawn Knox
for the use of Fitzgerald's Shamrock Restaurant, Inc.
t/a Shamrock Restaurant
7701 Fitzgerald Road
Thurmont, MD 21788
Class B, On Sale, Beer, Wine and Liquor
License #11BL 1087, FCLB Case#11287

Mrs. Thall asked if the officers were present. No one replied. Mr. Pippy asked if the minor was present. No one replied.

MOTION: Mr. Pippy made a motion to dismiss the case due to the minor and officer not being present.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Fitzgerald complimented the Board on how they conduct business.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was unanimous ***Ayes-3, Nay-0***
(Motion passed)

g. Sales to Minor

Woodsboro Liquors
Betty Jenkin and Rick Sweadner
for the use of Woodsboro Liquors
t/a Woodsboro Liquors
601 S. Main Street
Woodsboro, MD 21798
Class A, Off Sale, Beer, Wine & Liquor
License #11AL 1303, FCLB Case#11288

Mrs. Thall stated this is the same situation as the Shamrock case.

MOTION: Mr. Stup made a motion to dismiss the case due to the officers and minor not being present.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Sweadner asked if the compliance checks are not legal in the State of Maryland. Mr. Pippy asked him to give his documents to Mrs. Thall.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was unanimous ***Ayes-3, Nay-0***
(Motion passed)

2. Conference

Buckeystown Pub
Pete Kimmel & Richard Johnson
for the use of Three Fools, LLC
t/a Buckeystown Pub
6803 Michaels Mill Road
Buckeystown, MD 21717
Class B, On Sale, Beer, Wine and Liquor
11BL #1278

Mr. Pippy explained that the reason for this conference is to review what was approved by the Board of Zoning Appeals. Entertainment on the patio for two Saturdays a month until 8pm. At the end of the season last year the Board asked that they come back to review the outside entertainment renewal. Buckeystown Pub went back before the Board of Zoning appeals requesting reconsideration of their entertainment time frames. That request was denied and they have approved what was given last season, which is two Saturdays a month until 8pm.

Mr. Stup thought there was more than two Saturdays a month last year. Mr. Pippy said that we matched the Board of Zoning Appeals from last year. They requested more, but that was not approved. They approved the same as last year. Mr. Johnson added that they are allowed to get twelve permits during the course of the year for special events. Mr. Pippy suggested that if they do request one of the twelve permits outside of what is approved here today, they need to send those request in for Board approval. Mr. Kimmel thought we were notified by Zoning automatically.

Mr. Pippy asked for an update of any issues from last year. Mr. Kimmel stated they use a sound meter at every event. He is not aware of any issues after the hearing last year. Inspector Shrum attended every event and acted as a liaison to the neighbors if anything would have come up. As far as they are aware there have been no issues. At the hearing last month, the neighbors expressed that the issues have improved dramatically. The

neighbors didn't want music every Saturday. Mr. Pippy asked if we have received any new complaints since the last hearing. Mrs. Dean said the Board has everything and received nothing new.

Mr. Stup asked about the inside entertainment and that includes a jukebox. He wanted to be clear that the entertainment approval is completed in the renewal. He asked if the Health Department approval was up to date. Mr. Kimmel replied as far as they know they are in compliance with the Health Department. He read an email that said the approval for outdoor seating was conditioned upon the indoor seating being closed. Mr. Kimmel replied that the outdoor seating is an alternative and meets the clean air act. He said this doesn't increase the capacity whether patrons are inside or out. He said that should be on file with this Board. Mr. Stup added that it is do with the septic. Mr. Kimmel replied that when there is an outdoor function, they have to bring in a porta potty. That is what they have done in the past and have been approved for.

Mr. Stup asked for the Inspectors input. Inspector Shrum has no knowledge of any complaints. He walked out to the street near the neighbors when music was playing and it was barely audible. He felt they have done a good job of policing it. Mr. Kimmel said we have done our best to make sure that we are in compliance. They have past compliance checks. Mr. Stup is okay with approving the outdoor area with Health Department approval.

Mrs. Burrell asked for copies of the Health Department letter. Mr. Pippy wanted to clarify the issue in question with the Health Department when defining the alternative outdoor seating. He is not sure this comes under the purview of this Board. We are here to discuss the outside entertainment and being in line with the Board of Zoning appeals. He would like the Board to focus on the issue before this Board, which is entertainment for two Saturdays a month 1pm to 8pm. There have been no complaints and the issues have seemed to subside. If there other issues from outside agencies, that is for them to review and enforce.

Mr. Stup reiterated that if this was a new application for a new license, the Health Department would review the application. Mr. Pippy asked if an existing license came to us for entertainment, would we reach out to the Health Department. Mr. Stup didn't think that we would reach out. Mrs. Dean added that this case was to be re-evaluated at renewal time. Mr. Pippy wanted clarification of the Health Department issue. Mr. Kimmel interjected that this has gone on 8 years and they have been approved by the Board for outside area. They worked with Mrs. Dean on this issue several years ago. They went back to the permits department and fixed those issues, then went to the Health Department for additional seating. They were offered alternative seating due to the clean air act. The Health

Department did give them a letter that they could serve food and have alternative seating outside. They have copies of the letter. They do add the porta pottys when they have a function of 70-80 people outside to satisfy the requirements of the Health Department.

Mr. Kimmel stated that they did not bring anything with them today because this was to be a conference about the outside entertainment. He did not understand that other agencies input would effect this conference today. They didn't think they needed anything else today. Mr. Kimmel pointed out that it was them two here today and no neighbors complaining or here to oppose, so why are we talking about the Health Department. He feels like he is beating his head against the wall.

Mr. Pippy stated that the majority of the Board is not opposed to the current ongoing approval from the Board of Zoning Appeals. The remaining question is that there was an email from the Health Department regarding the septic. He asked, "What is their understanding of what is approved?" Mr. Kimmel said we are approved for alternative seating any day of the year up to the occupancy allowed in our restaurant. Mr. Pippy asked if there was any objection to adding verbiage to the approval from this Board in regards the alternative seating. Mr. Johnson said this is a problem. He added that they have more patrons coming on a Saturday for entertainment than they would on a normal Saturday.

Mr. Stup added that there are special events that the Health Department can grant over a twelve month period. Mr. Kimmel said there are twelve that he is aware of. Mr. Stup stated that to exceed the capacity they would allow the porta pottys to be brought in. He does not agree with overriding a partnering agency requirements. He wants staff to have the approval from those outside agencies. Mr. Pippy asked how expensive it would be to get porta pottys for each event. Mr. Kimmel stated that it is about three hundred dollars a day. He added that the holding tank is pumped out once a week. Mr. Pippy pointed to the email from the Health Department that did give some sort of approval. He did not want to go far outside of what we do as a Board. He understands that the partnering agencies have their part in it but let's focus on what is in our realm. He made it clear that if the Liquor Board approves this piece of the puzzle, then it is important for them to understand they still have to comply with the other agencies request. Mr. Kimmel understands that. Mr. Pippy is comfortable with approving what the Board of Zoning Appeals approved.

Mrs. Burrell understands and agrees that this Board needs to stay within its jurisdiction.

MOTION: Mrs. Burrell made a motion to approve the two Saturdays a month that is within this Board's jurisdiction.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Nay
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was **Ayes-2 Nays-1**
(Motion Passed)

3. Minutes Update – Minutes were voted on via email.

MOTION: Mr. Stup made a motion to approve public minutes for 3-26-18 with minor corrections.

SECOND: Mr. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was **Ayes-3, Nays-0**
(Motion Passed)

4. Public comment – Martin Johnson would like to discuss some policy issues. He brought up the ten signatures required on an application and how cumbersome this process is on the applicants. Asking total strangers for personal information by going to door to door is incredibly intrusive. The public doesn't react well to that request. Identity thieves can use this basic information to take someone's identification. He understands the reasons why it is asked, but this is becoming darn near impossible. We asked the public to go through these documents and it is very cumbersome. Mr. Pippy stated that this subject has been brought up several times. In recent months there was a fraud case with signatures and because we had these signatures, the public brought this to light. We are always trying to make the application process easier. He is not on the fence about the signature process. He wants to make sure the public has their input on an alcohol license in their neighborhood. Unless we can come up with a process online, this Board will continue ask for signatures the old fashioned way. We can get creative with it in the future with letters and possibly the online system in the future. Mr. Martin likes the idea of the online possibility. The way the Board has it set up now still creates issues where someone may not have an email or want to give you their personal information. The person may not feel comfortable saying that, so it becomes awkward. The applicant may write down a false cell phone and a false email. Then the burden falls on the applicant who

may have been completely honest but it appears that this information provided is not accurate. How is an applicant to prove that? It makes the applicant look like a crook. A person with bad intent will find a way to give fraudulent information. Mr. Pippy said that we could add something on the form that could say chose not to answer if someone doesn't feel comfortable giving out their information. Mr. Johnson likes the idea of adding a check box. Mr. Pippy said the basis for this is to get the public's input. Mr. Johnson added that this helps establish that public need and desire by getting public input. Mr. Pippy said that when we get another application we should ask how many doors the applicant had to knock on to get those ten signatures. Mr. Johnson said it took him four and half hours on a Sunday afternoon to get 14 signatures. He says it is difficult to get signatures. Mr. Stup said years ago there was no radius before the law changed. The intent was to be transparent and the public need. He feels it is working. Mr. Pippy likes the suggestion and we will explore it further.

Mr. Martin has a second procedural question, if a person comes before you and is granted conditional approval and would like to open a second location, they create another company. Is there anything that prevents him from applying for a second Class B license? When that law was drafted it was to be applied to a sole proprietor as he understands it. Mr. Pippy said as the law is currently written he cannot be on two licenses. He would have to come off as the licensee and add someone else as the licensee. Mrs. Dean pointed out that with the way the Corporation are set up now, he went on the license because he is the only one on the Corporation. This is a Close Corporation. Mr. Pippy went through what is expected of an LLC. He thinks the designated agent would work. Mrs. Thall stated it depends if there is stock. It has to be a stockholder. Mr. Pippy said as long as we are within State Law, we will work with you on this. Mr. Johnson pointed out that having a financial interest and being an applicant are two different issues. He could notify the Board that his circumstances have changed and has ownership in a second location. Mr. Pippy said he could have ownership in both but cannot be a licensee on both. Mr. Johnson wanted to understand how this will work. He says this is not clear. Mr. Pippy asked Mr. Johnson to send the specifics since we don't have all the information in front of us. We will review the specifics and work with him within the law.

5. Closed Session Vote - Mr. Pippy made a motion to go into a Closed Session. Mrs. Burrell seconded the motion. All the Board members were in favor. Mrs. Thall asked for the statement to go into the closed session. Mrs. Dean read the purpose for the Closed Session. It is to discuss a personnel matter that affects a specific employee.

Meeting adjourned at 11:59 am

Respectfully submitted,
Kathy V. Dean, Administrator
FREDERICK COUNTY LIQUOR BOARD

Prepared by Dawn Shugars